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IN THE SUPREME COURT OF THE
UNITED STATES OF AMERICA

October, 1985 term

MELVIN ANTHONY MARSHALL,
APPELLANT,

v.

COURT OF APPEALS OF MARYLAND,
APPELLEE,

ON APPEAL FROM THE COURT OF APPEALS OF MARYLAND

JURISDICTIONAL STATEMENT

RESPECTFULLY SUBMITTED,

MELVIN A. MARSHALL
P.O. BOX 50245
WASHINGTON, D.C. 20004
(202) 726-4249

1/5 pp

QUESTIONS PRESENTED

WHETHER DUE PROCEES OF LAW OR THE EQUAL PROTECTION CLAUSE FORBIDS A COURT FROM PLACING THE BURDEN OF SHOWING MORAL FITNESS TO PRATICE LAW UPON AN APPLICANT. AND SUBSEQUENTLY DENYING THE SAID APPLICANT THE RIGHT TO PRATICE LAW. WHILE BEING UNABLE TO ARTICULAE ANY SPECIFIC REASON FOR SUCH A FINDING OF MORAL UNFITNESS. I.E. BEFORE A STATE CAN PREVENT A CITIZEN FROM PRATICING LAW. IS IT REQUIRED TO BE ABLE TO SPECIFY REASONS FOR MAKING A FINDING OF MORAL UNFITNESS?

WHERE THE STATE OF MARYLAND HAS PERMITTED EX-DRUG ADDICTS. AND PERSONS WHO HAVE. BEEN CONVICTED OF CRIMES INVOLVING DISHONESITY SUCH AS THEFT. IS THE EQUAL PROTECTION CLAUSE OF THE CONSTITUTION VIOLATED WHEN A PERSON WITH NO CRIMINAL CONVICTIONS-- EXCEPT A CONTEMPT OF COURT-- IS DENIED THE RIGHT TO PRATICE LAW. WITHOUT ANY ARTICULTION OF WH HE HAS " NOT MET HIS BURDEN OF SHOWING" MORAL FITNESS ?

WHERE A PART OF THE REASON FOR A FINDING OF UNFITNESS TO PRATICE LAW RESTS UPON A PRIOR ADJUDICATION IN BANKRUPTCY. IS THERE A VIOLATION OF 11 U.S.C. 525 WHICH GENERALLY PROHIBITS DISCRIMINATION AGAINST BANKRUPTS ?

WHERE AN ADMINSTRATIVE HEARING TAKES THREE YEARS TO COMPLETE. IS THE APPLICANT ENTITLED TO CONFRONT WITNESSES ABOUT A MATERIAL QUESTION OF DISPUTED FACT. HAVING THAT WITNESSES' (MR. KEATING) TESTAMONY MADE A PART OF THE RECORD ?

table of contents

1. reference to opinions below p. 6

2. Jurisdiction of This Court p. 9

3. Statutes p. 11

4. Statement of the Case p. 13

5. Why the case should be briefed p. 22

6. Appendix p. 32

7. ORDER DENYING ADMISSION TO THE MARYLAND BAR p. 6

8. RECOMMENDATION OF STATE BOARD OF LAW EXAMINERS p. 32

9. RECOMMENDATION OF THE SIXTH JUDICIAL CIRCUIT OF MARYLAND p. 50

10. LETTER OF MELVIN A. MARSHALL TO STATE BOARD OF LAW EXAMINERS p. 71

11. MOTION FOR RECONSIDERATION OF
ORDER DENYING ADMISSION TO BAR
OF THE STATE OF MARYLAND P. 91

12. NOTICE OF APPEAL TO THIS COURT P. 101

table of authorities

* indicates principal authority relied upon

1. Dent v. West Va., 129 U.S. 114 ( ) p. 26

2. In re Hallam, 282 Md. 333
387 A2d. 271 (Md. 1978) p. 27

3. In re Melvin A. Marshall
445 A2d.5 (D.C.Apps. 1982) p. 19

4. * Koinosberg v. State Bar of California.

353 U.S. 252 (1957) p. 24

5. Law Students Research Council v. Wadmond.

401 U.S. 154 ( ) p. 24

6. Leis v. Flynt. 439 U.S. 438 (1979) p. 23

7. *Schware v. Bd. of Law Examiners.

353 U.S. 232 (1957) p. 24

8. Supreme Court of N.H. v. Piper.

470 U.S. ___ , 84 L2d. 205 (1985) p. 22

REFERENCE TO OPINIONS BELOW

THE ORDER OF THE COURT OF APPEALS OF MARYLAND WAS PRESENTED BEFORE JUDGES SMITH, ELDRIDGE, COLE, RODOWSKY, COUCH AND MURPHY, CHIEF JUDGE WITH CHARLES E. ORTH SPECIALLY PARTICIPATING. THERE IS NO FORMAL REPORT OF THE ORDER KNOWN TO APPELLANT. THE ORDER WAS ISSUED ON JANUARY 9, 1985 AND STATES:

IN THE MATTER OF THE APPLICATION OF MELVIN, M FOR ADMISSION TO THE BAR OF MARYLAND	:	IN THE COURT OF APPEALS OF MARYLAND MISC. NO. 12 SEPTEMBER TERM, 1984

ORDER

The Court, by an Order dated November 20, 1984, having ordered the appearence of the petitioner, Melvin M. to show cause at a hearing to be held on Janurary 4, 1985 why the reccommendation of the State Board of Law Examiners should not be accepted by the Court.

The Court, at a hearing held on Janurary 4, 1985, having heard and considered the petitioner's arguments in opposition to the unfavorable reccommendations of the State Board and the Character Committee for the Sixth Judicial Circuit.

It is this 9th day of Janurary, 1985 by the Court of Appeals of Maryland.

ORDERED that the reccommendation of the State Board of Law Examiners that petitioner not be admitted to the Bar of Maryland be, and it hereby is, accepted.

/s/ Robert C. Murphy

CHIEF JUDGE

Eldridge and Cole,JJ. would admit the

petitioner to the Bar of Maryland.

A TIMELY MOTION FOR RECONSIDERATION WAS FILED. AND DENIED WITHOUT FORMAL ORDER ON FEBRUARY 22. 1985.

THE DECISION OF THE STATE BOARD OF LAW EXAMINERS ACCEPTED BY THE COURT IS REPRODUCED ON PAGE 32 .

JURISDICTION OF THIS COURT

THIS IS A PROCEEDING WHEREIN APPELLANT, A MEMBER OF THE BAR OF THIS

COURT. AFTER SUCESSFULLY SITTING FOR THE NON-ATTORNEY EXAMINATION OF THE BAR OF THE STATE OF MARYLAND WAS REFUSED ADMISSION TO THE BAR OF THE STATE OF MARYLAND BECAUSE HE HAD NOT SATISFIED HIS BURDEN OF PROVING HIS MORAL FITNESS TO BE A MEMBER OF THE SAID BAR. THE ORDER DENYING APPELLANT ADMISSION WAS FILED ON JANURARY 9. 1985. A TIMELY MOTION FOR RECONSIDERATION WAS DENIED ON FEBRUARY 22. 1985. ON MARCH 11. 1985 THE NOTICE OF APPEAL WAS FILED WITH THE CLERK OF THE COURT OF APPEALS OF MARYLAND. JURISDICTION IS CONFERED UPON THIS COURT PURSUANT TO 28 U.S.C. 1257 (2).

STATUTES

ART 1 SEC 10 CLAUSE 1 STATES IN PERTINATE PART:

NO STATE SHALL...GRANT ANY TITLE OF NOBILITY

ART. IV SEC. 2 STATES IN PERTINATE PART:

> THE CITIZENS OF EACH STATE SHALL BE ENTITLED TO ALL PRIVILEDGES AND IMMUNITIES OF CITIZENS IN THE SEVERAL STATES.

THE FOURTHTEENTH AMENDMENT STATES IN PERTINATE PART:

> NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE. LIBERTY OR PROPERTY. WITHOUT DUE PROCESS OF LAW: NOR DENY ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

MARYLAND RULE GOVERNING ADMISSION TO THE BAR 2(d) STATES:

The applicant shall at all times have the burden of proving his good character before the Character Committee. the Board (of State Law Examiners) and the Court. and the failure of an applicant to answer any revelant question on the Questionaire or propounded by any member of the Charecter Committee. the Board or the Court shall justify a finding that the applicant has not met the burden of proving his good moral character.

TITLE 11 U.S.C. 525 STATES IN PERTINATE PART:

EXCEPT AS PROVIDED IN THE PERSHABLE AGRICULTURAL COMMODITIES ACT.... THE PACKERS AND STOCKYARDS ACT... AND SECTION 1 OF THE ACT ENTITLED " AN ACT MAKING APPROPIATIONS FOR THE DEPARTMENT OF AGRICUL:TURE...". A GOVERNMENTAL UNIT MAY NOT DENY. REVOKE. SUSPEND. OR REFUSE TO RENEW A LICENSE.

PERMIT. CHARTER. FRANCHISE OR OTHER SIMILAR GRANT TO. CONDITION SUCH A GRANT TO. DISCRIMINATE WITH RESPECT TO SUCH A GRANT AGAINST. DENY EMPLOYMENT TO. TERMINATE THE EMPLOYMENT OF. OR DISCRIMINATE WITH EMPLOYMENT AGAINST. A PERSON THAT IS OR HAS BEEN A DEBTOR UNDER THIS TITLE OR A BANKRUPT OR A DEBTOR UNDER THE BANKRUPTCY ACT. OR ANOTHER PERSON WITH WHOM SUCH BANKRUPT OR DEBTOR HAS BEEN ASSOCIATED SOLELY BECAUSE SUCH BANKRUPT OR DEBTOR HAS BEEN A DEBTOR UNDER THIS TITLE. OR A BANKRUPT OR DEBTOR UNDER THE BANKRUPTCY ACT...OR HAS NOT PAID A DEBT THAT IS DISCHARGEABLE UNDER THIS TITLE OR WAS DISCHARGED UNDER THE BANKRUPTCY ACT.

Statement of the Case

Appellant, a black male who graduated with honors from the George Washington University Law School in 1977, was admitted to the Bar of the District of Columbia in 1978. He sucessfully

completed the Summer 1981 Examination for admision to the Bar of Maryland. Under the Maryland proceedure, after passing the Bar Examination, the applicant is required to pass a screening before Character Committees located in each judicial circuit of the State. Appellant met with one Mr. Keating of the Character Committee, and was given instructions as to how to complete his Character Questionaire. Question 10 of that questionaire requires the applicant to list all cases to which he has been a party. Prior to the time that he became a member of the Bar of the District of Columbia, he had filed some 35-40 *pro se* suits, and because of his poor record keeping and changes in the District of Columbia Court system he was unable to certify that his list

of cases was complete. In addition, at the unrecorded meeting he informed Mr. Keating of a criminal contempt, but was told not to worry about that. Mr. Keating asked appellant to provide a further listing of all of the cases he was party too, in order to complete his answer to question 10 of the character questionaire.

In addition, appellant was adjudicated bankrupt in 1973. The Committee utilized this factor as a basis for finding that appellant was not morally fit to pratice law.

On December 29, 1981, a list of all of the cases was sent to Mr. Keating, who found the listing deficient because it only cited docket numbers, and

jurisdictions. A futher listing was provided on March 7, 1982. Neither of these lists refered to the criminal contempt, which was the subject matter of a seperate question on the questionnaire.

A hearing was held by the Character Committe of the Sixth Judicial Circuit, where appellant stated:

> I WOULD START OUT, JUST FOR THE RECORD, TO NOTE AN (E)CEPTION TO THE ALLOCATION OF THE BURDEN OF PROOF IN THESE TYPES OF PROCEEDINGS.
>
> IT SEEMS THAT, UNDER WELL-ESTABLISHED RULE, PARTICULARLY IN RE GRIFFITHS WHICH I CITED, THAT THE PRATICE OF LAW IS A NORMAL PROFESSION WHICH A PERSON WOULD HAVE THE RIGHT TO PURSUE UNLESS IT WAS SHOWN BY SOME EVIDENCE THAT HE DID NOT.
>
> SO, I WOULD THINK THAT IN LIGHT OF THE FACT THAT I HAVE BEEN ADMITTED TO THE FOURTH

CIRCUIT. THE UNITED STATES SUPREME COURT BAR. AND THE DISTRICT OF COLUMBIA BAR. THE BURDEN WOULD BE ON THE COMMITTEE TO ARTICULATE SOMETHING DEFINATE THAT WOULD REFLECT ON MY MORAL CHARECTER. NOT THE OTHER WAY AROUND-- FOR ME TO PROVE AN AMORPHOUS OR VAGUELY AND ILL-DEFINED ETHICAL OR MORAL BACKGROUND TO PRATICE LAW.

SECONDLY, I WOULD INVITE THE COMMITTEE'S ATTENTION TO 11 UNITED STATES CODE, SECTION 525, WHICH PROHIBITS INSTITUTIONS IN GENERAL, AND IN PARTICULAR GOVERNMENTAL UNITS, FROM DISCRIMINATION ON THE BASIS OF BANKRUPTCY....
TRANSCRIPT MAY 3, 1982 P
11-12.

IN REPLY MR. KEATING STATED:

YOU HAVE MENTIONED THE BURDEN OF PROOF WHICH YOU HAVE OBJECTED TO MR. MARSHALL.

WE HAVE A SIMPLE ANSWER TO THAT. THE COURT OF APPEALS TELLS US THAT YOU HAVE THE BURDEN OF PROOF--THE COURT OF APPEALS OF MARYLAND. THEY ARE THE ONES TO WHOM WE ADDRESS

OURSELVES IN THIS STATE AND IN THI
COMMITTEE.

FOR PURPOSES OF THIS HEARING, YOU HAV
THE BURDEN OF PROOF.

transcript May 3, 1982 p.15

Thereafter, the Charecter Committee reccommended against appellant admission to the Bar because of his inability to certify completely all of the litagation he was involved in. In its June 28, 1982 letter, the Character Committee states

> THE COMMITTEE ADMITS ITS MISGIVINGS AS TO THE CANDOR OF THE APPLICANT. WE CAN ONLY INFER A LACK OF SINCERITY OR AN INTENT TO MISLEAD US BY THE WAY IN WHICH THE APPLICANT HAS DEALT WITH THIS COMMITTEE. NONETHELESS, WE BASE OUR RECCOMMENDATION AGAINT ADMISSION SOLELY UPON THE APPLICANT'S FAILURE TO

COMPLETE THE ANSWERS TO QUESTION 10 IN THE QUESTIONAIRE AND TO ANSWER THOSE QUESTIONS ASKED HIM BY THE COMMITTEE WITH RESPECT TO HIS MORAL CHARACTER AND FITNESS.

Cronologically, appellant completed the Character questionaire sometime in May, 1981. On August 19, 1980 appellant had been adjudicated in contempt. This adjudication was affirmed on October 1, 1981. In re: Melvin A. Marshall , 445 A2d. 5 (D.C. APPS 1982). He met with Mr. Keating on November 11, 1981, and subsequently met with the Character Committee on May 3, 1982-- his birthday. on June 28, 1982 the Charecter Committee reccommended against his admission for the reasons stated above. On July 27, 1982 there was a Hearing before the

State Board of Law Examiners at which appellant renewed his objection to the allocation of the burden of proof, and stated that he believed that his current admissions to so many Bars created an presumption of moral fitness. The mater was remanded to the Character Committee for futher proceedings, which were held Janurary 27, 1983. Prior to that time, on October 28, 1982 and in compliance with the directive of the State Board of Law Examiners, apellant filed a supplment to his Character questionaire, which disclosed the the existence of contempts, and other matters. Appellant comolained of delay in a letter dated February 21, 1984, reproduced in the appendix. On March 27, 1984 more than a year after the second hearing, the Character

Committee reccommended against the admission of appellant to the Bar of Maryland. A copy of that reccommendation is reproduced in the appendix . appellant's response reproduced in the appendix. On November 5, 1984 the State Board of Law Examiners made its reccommendation to the Court accepted by the Court of Apeals and reproduced ON PAGE 32 . As noted above the Court of Appeals accepted the reccommendation of the State Board of Law Examiners on Janurary 9, 1985 and denied reconsideration on February 22, 1985.

This appeal follows.

Why Full Briefing Is Necessary.

Recently, this court has had occassion to issue several opinions about admissions to the pratice of law in the several states. See, e.g. SUPREME COURT OF NEW HAMPSHIRE V. KATHYN A. PIPER , 470 U.S. ____ , 84 L2D. 205 (March 4, 1985). The question of the standerds to be used to admit or to deny admission to the pratice of law have been deemed important by this Court, and to the well-being of the nation. Appellant, like Piper, has resided within walking distance of the State of Maryland for most of his life. His " natural

market" friends and relatives he grew up with have tended to do business in Prince George's County. As a praticle matter, he cannot sucessfully compete economically, without being able to operate in Maryland.

There is no right for an out of state lawyer to pratice in a foreign jurisdiction. Leis v. Flynt , 439 U.S. 438 (1979). Thus, while appellant has appeared frequently before Maryland Courts, it has always been in association with local counsel-- at the expense of two legal fees-- and at the mercy of Maryland judges. Appellant desires to be able to speak as a lawyer without fear.

At least twice before, this Court has intimated that the burden of proving moral unfitness to pratice law rests upon the Government, and not upon an applicant. Konigsberg v. State Bar OF Cilfornia , 353 U.S. 252 (1957); Schware v. Bd. of Bar Examiners , 353 U.S. 232 (1957). Speiser v. Randall , squarely stands for the proposition that it is unconstitutional to shift the burden of proof to an applicant to demonstrate his moral fitness. Rather, some type of positive misconduct or moral failure must be cited by those who would preclude a citizen from exercising the pratice of law, which, after all, is one of the normal professions of life. See also Law Students Research Council v. Wadmond 401 U.S. 154 ( ).

In both Konigsberg and Schware this Court reviewed the entire record before the state courts and found that the applicant's positive proof of good character overcame questions which arose because of prior arrests, use of false names or membership in the Communist Party. A clear rule needs to be set out in Constitutional terms to preclude future atorneys from suffering the disgrace, and stigma of being cast as morally unfit because they cannot satisfy unarticulated standerds of proof. In particular, the allegations that appellant does not reconize his responsibilities under the Canons on Professional Responsibility is horrible. The reccommendation accepted by the Court misstates the facts, and ignores the

central issue. Appellant complied with the law of the District of Columbia as regards the $ 6,000.00 in question. If appellant did what the law required of him, how can his actions be a sign of immorality ? The Court ignored this question.

In Dent v. West Va. , 129 U.S. 114 the Court indicated that a State may not exclude a person from the pratice of law or from any occupation in a manner or for reasons which contravene the equal protection clause of the 14th amendment to the Cosntitution of the United States. Maryland has ruled that persons who have criminal records and who are former drug addicts may be morally fit to pratice law in that

state. In re Allan , 282 Md. 683, 387 A2d. 271 (Md. 1978). How a convicted criminal and ex-drug addict can be fit to pratice law in Maryland, while a Member of the Bar of this Court is not is not even explained. Appellant is similarly situated to Allan. They both passed the Bar, but, obstensibly, apellant's proof of moral character surpasses that of any untried person, since he has sucessfully completed the pratice of law before the District of Columbia, and several federal Courts without significant problem. Indeed, he has frequently appeared before the Maryland Courts .

In addition, the action by Maryland harms appellant's good name, and will have a material effect upon his

professional career. For a Court state that an attorney is morally unfit to perform his function is a tangible harm to his reputation within the meaning of Wisconsin v. Constantineau , 400 U.S. 433 (1971). The tag, morally unfit to pratice law, haunts and hurts appellant and is like a millstone around his neck. Were there some reason-- some specific articulatable reason-- for such an action, he might be consoled, but he is only charged with not meeting a burden that is nowhere defined or articulated.

To require that a citizen prove his moral fitness before praticing law, is to invent a Title of Nobility in

contradistinction to Art. 1, section 10 clause 1 of the Constitution of the United States of America. No cases construing this provision have been found by appelant, but it seems clear that in a democracy, the reservation of certian professions and powers into preferred hands is forbidden. In England, itle of nobility sprang from the custom of having only certian persons appear for the King's counsel, and dispense with the King's justice. In America, where all men are considered equal, to say that only those who somehow rise above the crowd by meeting a burden of demonstrating moral fitness can pratice law, is the equivalent of a Title of Nobility since such a rule reserves the pratice of law into the hands of a select few people.

Moreover, the refusal to permit appellant to pratice law, manefestly vic.ates 11 U.S.C. 525 which prohibits discrimination against bankrupts.

Thus, there is a substantial federal question involved, affecting not only instant appellant but the nation at large. Accordingly, full briefing and oral argument are in order.

Respectfully Submitted

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STATE BOARD OF LAW EXAMINERS

ANNAPOLIS, MD. 21404

SEPTEMBER 11,1984

TO THE JUDGES OF THE

COURT OF APPEALS OF MARYLAND

RE: APPLICATION OF MELVIN
ANTHONY MARSHALL FOR ADMISSION
TO THE BAR OF MARYLAND
APPLICATION NO.: A-9375

It Please Your Honors:

The applicant, melvin Anthony Marshall, was graduated with honors from the National Law Center, George Washington University in 1977, and was admitted to the Bar of the District of Columbia in May, 1978. He has praticed law in the District of Columbia since

that time. Applicant filed his application to sit for the Maryland Law Examination in June, 1981, and sucessfully completed the Summer 1981 Examination. Since that time the conclusion of Applicant's character inquiry has been confounded because of Applicant's inability or unwillingness to provide the Character committee for the 6th Circuit and the Board with coherent, useful or understandable information regarding his character and fitness.

In regard to his application for registration, filed May, 1981, Applicant responded in the following manner:

Question 9(b)-- I presently owe money,

some part of which has been delinquent for more than 90 days to the following:

Answer: "N/A. There is no money that I owe which is more than 90 days past due. 11 November, 1981 MAM."

Question 9(c)- Are there any unsatisifed judgments entered against you ?

Answer: " No."

Question 10- The following is a complete list of all suits in equity, actions at law, suits in bankruptcy or other statutory proceedings, matters

in probate, lunacy, guardianship, and every other judicial or adminstrative proceedings of every nature and kind, except criminal ; proceedings to which I am or have ever been a party:

Answer: " will be supplied"

Question 11- The following is a complete record of all criminal proceedings (including traffic violations other than an occasional parking violation) to which I am or have ever been a party.

Answer: " none"

Question 17- Are there any unfavorable

incidents in your life, whether at school, college, law school, business or oterwise. which may have a bearing upon your character or fitness to pratice law not called for by the questions contained in this questionnaire or disclosed in your answers.

Answer: "No"

Question- If so, give full details.

Answer: " The question is unconstitutionally vague."

Applicant met with investegating Committeeman of the Character

Committee of the 6th Circuit in a personal interview on November 11, 1981. At the meeting some conversation ensued concerning contempt proceedings in the Courts of the District of Columbia, and Applicant promised to provide a complete list of all suits, etc. as required in Question 10 of the application. On December 29, 1981 Applicant sent a listing of cases to the Committeeman, who found the list deficient as a response to Question 10: the Committeeman so informed applicant. On March 7, 1982, Applicant provided futher information, inadequate in the opinion of the Committee, concerning the 35 law suits, more or less, to which Applcant was a party. In neither of the lstings was there disclosure concerning a citation for contempt.

The chairwoman of the Committee then convened a hearing before the Committee on April 14, 1982. Applicant there appeared, without counsel and was questioned concerning incomplete answers to Question 10. A copy of the transcript of that hearing is enclosed with the file. The Committee attempted to obtain the necessary information orally from Applicant, without sucess. Applicant then requested additional time to obtain the desired information: 10 days from the date of the hearing was agreed upon as adequate time. The desired information was not supplied. Ten weeks later on June 28, 1982 the Committee forwarded a letter of opinion to the Board advising the Board of the difficulty

encountered: advising the Board that the Committee had discovered that the Applicant, though, in good standing as a member of the District of Columbia Bar, had at least one occasion been held in crimial contempt of court by the D.C. Superior Court: and reccommended agaist Applicant's admission.

After affording Applicant due notice, on Tuesday, July 27, 1982, the Board convened a hearing on the matter, and Applicant appeared without counsel. The Board explained the nature of the information required, the apparent discrepancies, and its willingness to return the matter to the Character Committee if Applicant would supply the requested information in a

reasonable time. Applicant elected to rectify and amplify the record. The matter was referred again to the Character Committee.

The Charecter Committee, upon recieveing once again the file, on September 8, 1982 corresponded with Applicant requesting with particularity information concerning litigation requested in Question 10, specific information regarding contempts of Court, and other information, with a request to provide that information to the Committee on or before October 1, 1982. The Committee supplied Applicant copies of the transcripts of hearings before the Committee and the Board.

Applicant then submitted a "Supplemental Character Questionnaire", which the Committee recieved on October 28, 1982, in which he updated Question 10 with additional information, but stated that he could not certify that the list was complete, and that he had spent in excess of 45 hours seeking complete information. In regard to Question 11, he disclosed the criminal contempt, and one instance of civil contempt. The answers to all remaining questions reflected no change, except for Applicant's age.

By letter of Janurary 13, 1983 Applicant was informed that the Character Committee desired to conduct

a futher hearing concerning his application; the hearing was scheduled and held on January 27, 1983. Applicant appeared without counsel. The transcript of that hearing has been made part of the file.

Applicant testified that he was held in contempt in a court of the District of Columbia in August, 1980; the Court of Appeals published its opinion upholding the contempt on October 1, 1981. Applicant had no explination for his failure to disclose specifically the criminal contempt. He alleged no attempt to withhold information, because both the lower court opinion and the appellate decision were published and "the Committee inevitably would have found out about

it." (Tr. 11) Applicant futher admitted to his being disciplined by the Board on professional Responsibility of the District of Columbia Court of Appeals because of the events leading to his being held in contempt.

Applicant also admitted to owing $2200.00 to the george Washington University for non payment of student loans (T. 25) outstanding since February, 1978(T. 26). He futher admitted that he owed Montgonery Ward between $800.00 and $1200.00, because of which a debt suit had been entered against him claiming $1500.00. (T 29)

Applicant also testified that he.

within the past 2 months had recieved a check beloning to a client in the amount of $6000.00, made payable to applicant and his client. Applicant had loss contact with his client. He had endorsed his client's name as well as his own (T34), placed the check in applicant's checking account, and wrote a check from that checking account to applicant's savings account(T32), after deducting Applicant"s fee of $500.00(T 33). Appellant justified this course of conduct by the " Rule of Necessity". (Tr. 32). Applicant had been unable to obtain a trust account at a banking institution in the District of Columbia. He had been advised by the Office of Bar Counsel that this course of conduct would violate the Disciplinary Rules.

The Charecter Committee on March 27, 1984 reccommended against Applicant's admission. That reccommendation is included in the file.

The Board of Law Examiners, pursuant to Rule 4(c) of the rules of Admission, informed Applicant that a hearing would be held regarding his application on JUne 11, 1984. A panel of the Board met on that date, and, after having waited in excess of an hour, ajourned upon Applicant's failure to attend, and the Panel's inability to reach Applicant by telephone. The Board recieved correspondence from Applicant dated JUne 4, 1984, stating that he had "

moved the Board to dispense with an oral appearence" but asked that another date be set. Accordingly the Board reset the date of hearing for July 24, 1984. By letter dated June 14, 1984 recieved on July 19, 1984 Applicant indicated, we believe, that he did not intend to be present for the July 24, 1984 hearing. Applicant did not in fact attend that hearing, and Applicant not having withdrawn, the Board proceeds based upon the testimony, the exhibits and documents contained in the file.

The Board finds that Applicant failed to disclose the fact that he had been held in criminal contempt in October, 1980, [illegible] application in

answer to Question 10. and in submissions of December 29, 1981 and March of 1982, and that he failed to disclose that contempt specifically in his meeting with investegating Committeeman on November 11, 1981, 40 days after rejection of Applicant's arguments by the D.C. Court of Appeals. The Board is of the opinion that Applicant had the duty to supply this information specifically and unambiguously to the Committee. Applicant disclosed neither to the Committee nor to the Board the Disciplinary proceedings of the Board of Professional Responsibility of the Disrict of Columbia Court of appeals, or of the discipline imposed as a result of those proceedings. Applicant futher failed to disclose, in answer to Question 9, his long outstanding

indebitness to the George Washington University in his original application. Finally, Applicant has demonstrated by his testimony at the hearing of Janurary 27, 1983 that he lacks an appreciation of the Canons of Professional Responsibility and of the Disciplinary Rules.

Applicant has, in the opinion of the Board, failed to meet his burden of demonstrating the character or the fitness required for the pratice of law in the State of Maryland. The Board therefore respectfully recommends that the Applicant, Melvin Anthony Marshall, be admitted to the Bar of this State.

Respectfully Submitted

/s/

Charles H. Dorsey, Chairman
William H. Price II.
M. Natalie McSherry
John F. Mudd

CHARACTER COMMITTEE
OF THE COURT OF APPEALS OF MARYLAND
FOR THE SIXTH JUDICIAL CIRCUIT

MARCH 27, 1984

REPORT AND RECOMMENDATION

RE: MELVIN ANTHONY MARSHALL
APPLICATION NO. A- 9375

FINDINGS OF FACT:

1. THE APPLICANT PASSED THE WRITTEN EXAMINATION FOR ADMISSION TO THE MARYLAND BAR IN JULY OF 1982. HIS APPLICATION HAS BEEN PENDING SINCE THAT TIME WITH RESPECT TO HIS QUALIFICATION AS TO MORAL FITNESS.

2. MR. MARSHALL IS A MEMBER OF THE BAR OF THE DISTRICT OF COLUMBIA, AND AS OF DECEMBER OF 1982, WAS A MEMBER IN GOOD STANDING OF THAT BAR. (FOOTNOTE OMITTED) BY A LETTER SENT IN FEBRUARY OF 1984 TO THE COURT OF APPEALS, MR. MARSHALL ALSO STATES THAT HE IS A MEMBER OF THE BARS OF THE UNITED

STATES COURT OF APPEALS FOR TH
DISTRICT OF COLUMBIA, AND THE FOURTH
CIRCUIT, AMONG OTHERS. MR. MARSHALL'
FEBRUARY 4, 1984 LETTER CAN BE FOUN
IN THE CASE FILE. IN ADDITION, MR
MARSHALL ADVISED THE COMMITTEE B
LETTER DATED MARCH 7, 1982, THAT H
WAS ADMITTED TO THE BAR OF THE SUPREM
COURT ON FEBRUARY 22, 1982
NONETHELESS, ON THE SUPPLEMENTA
QUESTIONNAIRE SUBMITTED ON OCTOBER 28
1982, THE APPLICANT ANSWERED " N
CHANGE" TO QUESTION 16 WHICH ASKS TH
APPLICANT TO DETAIL WHETHER, HE HA
REGISTERED FOR ADMISSION TO THE BAR O
ANY OTHER JURISDICTION . THE MARCH 27
1982 LETTER IS ATTACHED TO THE MAY
1982 HEARING TRANSCRIPT AS EXHIBIT 1
THE SUPPLEMENTAL QUESTIONNAIRE
ATTACHED TO THE JANURARY 27, 19
TRANSCRIPT AS EXHIBIT 2.

3.IN THE SUPPLEMENTAL CHARACTER QUESTIONNAIRE OF OCTOBER 28, 1982, MR. MARSHALL HAS DESCRIBED IN SOME DETAIL SOME 25 LAWSUITS IN WHICH HE WAS A PARTY. BUT FUTHER SUGGESTED THE LISTING MAY NOT BE COMPLETE. IN A MAJORITY OF THESE CASES. MR. MARSHALL WAS THE INITIATING PARTY. IN ALL THE CASES. HE HAS APPEARED PRO SE. THE LIST OF THE CASES ALSO REVEALS THAT HE HAS FREQUENTLY TAKEN APPEALS FROM ADVERSE DECISIONS OR ATTACKED THOSE DECISIONS COLLATERALLY.

4. THERE IS OUTSTANDING AGAINST THE APPLICANT A JUDGMENT OF APPROXIMATEDLY $2,200.00 ON BEHALF OF GEORGE WASHINGTON UNIVERSITY FOR UNPAID STUDENT LOANS WHICH APPLICANT ADMIST

IS A VALID OBLIGATION OF HIS WHICH H
INTENDS TO PAY IN THE FUTURE.

5. THE APPLICANT HAS ON ONE PRIO
OCCASION FILED FOR BANKRUPTCY IN TH
UNITED STATES DISTRICT COURT FOR TH
DISTRICT OF COLUMBIA, AND DISCHARG
WAS GRANTED.

6. CATHOLIC UNIVERSITY LAW SCHOOL WIL
NOT RELEASE INFORMATION WITH RESPEC
TO THE APPLICANT TO THIS COMMITTE
BECAUSE OF A DISPUTE WITH TH
APPLICANT. ACCORDING TO MR. MARSHALL
IT RELATES TO THE NONPAYMENT OF FEE
DISCHARGED IN THE BANKRUPTC
PROCEEDING.

7. THE REFERENCES SUBMITTED BY MR

MARSHALL AS WELL AS INFORMATION FROM HIS PREVIOUS EMPLOYERS WERE ALL LAUDATORY AND HIGHLY RECCOMMENDED HIS QUALIFICATIONS AS BEING MORALLY FIT TO PRATICE LAW. MANY OF HIS REFERENCES MENTIONED THE ZEAL MR. MARSHALL BRINGS TO THE PRATICE OF LAW AND HIS STRONG INTEREST IN CONSTITUTIONAL RIGHTS.

8. ACCORDING TO THE OFFICE OF BAR COUNSEL OF THE DISTRICT OF COLUMBIA. MR. MARSHALL HAS ON A PREVIOUS OCCASSION FOUND BY A COMMITTEE ON THE BOARD OF PROFESSIONAL RESPONSIBILITY OF THE DISTRICT OF COLUMBIA TO HAVE VIOLATED TWO DISCIPLINARY RULES FOR WHICH HE RECIEVED A REPRIMAND. THE ENTIRITY OF THE REPORT WHICH IS " PUBLIC" IS ATTACHED TO THE HEARING TRANSCRIPT OF JANURARY 27, 1993 AS EXHIBIT 3.

NOTICE OF HEARING"

12. THE INITIAL CHARECTER QUESTIONNAIRE SUBMITTED BY APPLICANT DATED MAY 18, 1981 DID NOT DISCLOSE IN ANSWER TO EITHER QUESTION 10 OR QUESTION 11 THE FACT THAT ON JULY 23, 1980, THE APPLICANT HAD BEEN ADJUDICATED IN CRIMINAL CONTEMPT OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR DISOBEYING AN APPOINTMENT ORDER IN A CASE. THE JUDGMENT OF CONTEMPT WAS UPHELD ON APPEAL BY THE D.C. COURT OF APPEALS IN THE CASE OF IN RE MARSHALL , 445 A2D. 5 (D.C. APPS. 1981);

CERT. DENIED ____ U.S. _ (1982), 51 U.S. LAW WEEK 3258 (OCT.4, 1982), NO. 81-5192. THE COURT OF APPEALS DECISION IS ATTACHED TO THE JANURARY 27, 1983 TRANSCRIPT AS EXHIBIT 4.

13. THE APPLICANT, WHEN QUESTIONED AT THE JANURARY 23, 1983 HEARING ABOUT HIS FAILURE TO DISCLOSE THE CONTEMPT CITATION STATED: "I DON'T KNOW WHY I DIDN'T." TRANSCRIPT, P. 10. FUTHER, THE APPLICANT INDICATED THAT HIS EARLIER TESTIMONY TO THE STATE BOARD OF LAW EXAMINERS IN WHICH HE STATED THAT THE CONTEMPT OCCURRED AFTER THE

PREPARATION OF THE APPLICATION WAS INACCURATE. MR. MARSHALL FUTHER TESTIFIED AT THE JANURARY 27, 1983 HEARING, THAT HE DID NOT INTEND TO MISLEAD THE COMMITTEE AND THAT HE HAD INTENDED TO FURNISH THE INFORMATION REGARDING THESE PROCEEDINGS FOLLOWING HIS INITIAL INTERVIEW IN NOVEMBER,1981, WITH ONE OF THE COMMITTEE MEMBERS.

14. UPON FUTHER QUESTIONING BY THE COMMITTEE AT THE JANURARY 27, 1983 HEARING, THE APPLICANT ADMITTED THAT HE FAILED TO INCLUDE ANY REFERENCE TO THE CRIMINAL

CONTEMPT CITATION IN THE TWO SUPPLEMENTAL LETTERS FILED WITH THE COMMITTEE ON DECEMBER 29, 1981 AND MARCH 7, 1982. TRANSCRIPT, P. 18.

15. BY THE APPLICANT'S ADMISSION AT THE HEARING HELD ON JANURARY 27, 1983, HE WAS AT THAT TIME HOLDING FUNDS, APPROXIMATEDLY $6,000.00, BELONGING TO A CLIENT AS A RESULT OF A SETTLEMENT OF A DISPUTED MATTER. THESE FUNDS WERE IN HIS PERSONAL SAVINGS ACCOUNT AT A BANKING INSTITUTION IN THE DISTRICT OF COLUMBIA. HIS JUSTIFICATION FOR THIS ACTION WAS THE " RULE OF

NECESSITY" ALTHOUGH HE TESTIFIED THAT HE HAD BEEN ADVISED BY THE OFFICE OF BAR COUNSEL PRIORTO DEPOSITING THESE CLIENT FUNDS IN HIS OWN ACCOUNT THAT THIS ACTION WOULD VIOLATE THE DISCIPLINARY RULES. TRANSCRIPT, P32.

CONCLUSIONS

1. THE COMMITTEE FEELS THAT THE APPLICANT HAS FAILED TO EXPLAIN ADEQUATEDLY THE OMISSION OF INFORMATION, IN ANY OF THE WRITTEN SUBMISSIONS HE HAS MADE TO THE COMMITTEE OVER THE COURSE OF TE LAST TWO AND

ONE-HALF YEARS. AS TO THE CRIMINAL CONTEMPT CITATION THAT WAS OBTAINED AGINST HIM AND UPHELD ON APPEAL IN THE DISTRICT OF COLUMBIA.

2. THE COMMITTEE FUTHER FINDS THAT IT CANNOT DISPEL ITS CONCERN THAT UNLESS THE COMMITTEE HAD LEARNED OF THE CONTEMPT CITATION BY INDEPENDANT MEANS. THIS FACTOR, WHICH THE COMMITTEE FEELS IS MATERIAL TO EVALUATING HIS MORAL CHARACTER AND FITNESS, MIGHT NEVER HAVE COME TO THE ATTENTION OF THE COMMITTEE OR THE BOARD OF LAW EXAMINERS.

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3. THE COMMITTEE FUTHER FEELS THAT THE FAILURE OF THE APPLICANT TO DEPOSIT CLIENT FUNDS IN A SEPERATE TRUST ACCOUNT IN ACCORDANCE WITH THE REQUIREMENTS OF THE CODE ON PROFESSIONAL RESPONSIBILITY, BY THE APPLICANT'S OWN ADMISSION, RAISES FUTHER QUESTIONS AS TO HIS SUITABLE MORAL CHARACTER. WE FEEL THAT THIS ACTION ON HIS PART IS AN INDICATION THAT HE MAY PLACE HE DEMANDS OF EXPEDIENCY OVER AND ABOVE HIS ETHICAL OBLIGATIONS EVEN IF HE IS OPERATING UNDER THE MISGUIDED IMPRESSION THAT NO ARM WILL BE DONE IN A PARTICUAR CASE.

4. MR. MARSHALL HAS DEMONSTRATED AN ENERGY AND DETERMINED VIEW OF HIS RIGHTS AND UNWILLINGNESS TO ACCEEPT THE STATUS QUO. THESE QUALITIES WE FEEL ARE COMMENDABLE PROVIDED FRIVILOUS LAWSUITS ARE NOT THE RESULT. THE COMMITTEE HAS BEEN UNABLE TO DETERMINE, BASED UPON THE INFORMATION THAT THIS CANDIDATE HAS SUPPLIED, WHETHER THE LAWSUITS PROSECUETED BY MR. MARSHALL WERE IN FACT DONE IN GOOD FAITH BASED UPON A SUBSTANTIAL BELIEF THAT HE WOULD PREVAIL. MR. MARSHALL

HAS HIMSELFD INDICATED THAT HE ALWAYS EVALUATES THE MERITS OF A CASE BEFORE PROCEEDING. ACCORDINGLY, THE MERIT OR LACK THEREOF OF THE NUMBER OF LAWSUITS IN WHICH THE APPLICANT HAS BEEN A PARTY, DID NOT INFLUENCE THIS COMMITTEE ADVERSELY WITH RESPECT TO THE APPLICANT. THE COMMITTEE DOES BELIEVE THAT AS A MEMBER OF THE BAR, MR. MARSHALL HAS A HIGHER DUTY THAN LAY PERSONS TO EVALUATE THE MERIT OF PRO SE LAWSUITS.

5. THIS MATTER HAS SEEN A VERY DIFFICULT ONE FOR THE

COMMITTEE TO RESOLVE. ON ONE HAND, THE COMMITTEE BELIEVES THAT IT WOULD BE OF BENEFIT FOR THE BAR TO HAVE AN " AVANTE GUARD" ATTORNEY IN MARYLAND, AS MR. MARSHALL DESCRIBES HIMSELF. BY THIS WE MEAN, COURAGEOUS LAWYERS WHO ARE WILLING TO CHALLENGE THE STATUS QUO OR TAKE THE UNTRIED BUT POTENTIALLY MERITORIOUS CASE. NONETHELESS, THE COMMITTEE CANNOT IN GOOD CONSCIENCE STATE THAT MR. MARSHALL HAS AT THIS TIME SHOWN HE MEETS THE STANDERDS OF MORAL FITNESS AND CHARECTER THAT HAVE BEEN SET BY THE COURT OF APPEALS. THIS FEELING IS BASED ON THE BELIEF THAT MR.

MARSHALL AS BEEN LESS THAN CANDID AND FORTHCOMING WITH THIS COMMITTEE WITH RESPECT TO BOTH THE CRIMINAL CONTEMPT CITATION AND THE AWSUITS IN WHICH HE HAS BEEN INVOLVED. THE COMMITTEE FEELS THAT SOME OF THE OTHER FACTORS THAT HAVE COME TO ITS ATTENTION, SUCH AS, THE OUTSTANDING JUDGMENT AGAINST MR. MARSHALL THAT REMAINS UNPAID. HIS APPARENT COMMINGLING OF CLIENT AND PERSONAL FUNDS, AND HIS DISCIPLINARY PROBLEMS WITH THE DISTRCT OF COLUMBIA ARE SUCH THAT THEY FAIL TO TIP THE BALENCE IN HIS FAVOR ON THE ISSUE OF HIS MORAL CHARECTER AND FITNESS

DESPITE HIS SUPPORTING CHARECTER REFERENCES. UNDER SUCH CIRCUMSTANCES, THE COMMITTEE AGAIN HAS DETERMINED THAT APLICANT HAS FAILED, AT THIS TIME, TO MEET HIS BURDEN OF PROOF IN PERSUADING THE COMMITTEE OF HIS MORAL CHARACTER FITNESS. OF COURSE, HE MAY HAVE A SUBSEQUENT OPPORTUNITY.

PERHAPS, THE BOARD WILL BE ABLE TO ADDUCE MORE INFORMATION FROM MR. MARSHALL WHICH WILL PERMIT IT TO MAKE A FAVORABLE RECCOMMENDATION TO THE COURT OF APPEALS. HOWEVER, THE COMMITTEE HAS DECIDED, AFTER

MUCH DELIBERATION, TO RECCOMMEND AGAINST MR. MARSHALL'S ADMISSION TO THE BAR OF THE STATE OF MARYLAND FOR THE REASONS STATED IN THIS REPORT.

(LIST OF EXHIBITS OMITTED)

COURT OF APPEALS OF MARYLAND

FEBRUARY 22,1985

MR. MELVIN ANTHONY MARSHALL
P.O. BOX 50245
WASHINGTON, D.C. 20004

RE: MOTION FOR CONSIDERATION
MISC. NO. 12, SEPT. TERM, 1984

DEAR MR. MARSHALL:

PLEASE BE ADVISED THAT THE MOTION FOR RECONSIDERATION FILED IN THE ABOVE ENTITLED CASE WAS DENIED ON THIS DATE.

VERY TRUELY YOURS,

CLERK,

LETTER FROM APPELLANT TO MARYLAND
STATE BOARD OF LAW EXAMINERS

STATE BOARD OF LAW EXAMINERS
DISTRICT COURT BLDG
APRIL 2, 1984
P.O. BOX 1911
ANNAPOLIS, MD. 21404

RE: MELVIN ANTHONY MARSHALL,
APPLICATION NO A-9375

SIR:

Perhaps I can be excuesed for being a little cynical. After an inordinate time of drafting, the Sixth Judicial Circuit's Character Committee has essencially found again that I have failed to prove my moral fitness to pratice law within the State of Maryland. The decision is clearly drafted to reach the desired end. I

can recall no testimony from Mr Keating.

1. The Committee places reliance o the fact that the supplementa character questionnaire does no include reference to my admission t the Bar of the Supreme Court of th United States of America. Yet, th Committee admits that that informatio was given to it before my firs meeting withit via letter dated Marc 7, 1982. I understand the word supplement" to mean " to add to", an saw no need to repeat informatio already in the Committee's posession As the Committee members may or ma not recall, admission to the Bar o the Supreme Court is by application without necessity of persona

appearence. As I became a member of that Bar primarily to avail myself of the use of the Court's library, I didn't bother to attend the admission ceremony. Thus, I believe that early March was the earliest date that I was aware that my application for admission had been granted. The Committee was promptly informed thereafter.

2. In a footnote, the Committee questions whether I am still a member in good standing of the Bar of the District of Columbia. That is public information available with a single phone call to the District of Columbia's organized Bar. There wouldn't appear to be any great difficulity in obtaining this

information, but the footnote advances the biased objective of te Committee. I am still alive and kicking as a member in good standing of te Bar of the District of Columbia Court of Appeals.

3. As to the judgment with George Washington University, I have made arrangements to repay the loans. Several of my friends who are members of the Maryland Bar, have found themselves in similar circumstances. Yet, the judgment placed no impediment to their admission. I freely admitted my debt, and I and the school-- in a spirt of mutual accommodation-- worked out a repayment schedule that is somewhat less harsh to me. I had believed that economic difficulities

were no longer considered to be signs of immorality. I just cannot understand the standerd used, and do not know if the standerd has been equally applied to me as to other similarly situated persons.

4. I did file for bankruptcy. The federal law prohibits discrimination because of this factor, 11 U.S.C. 525. To the extent that my moral character is somehow clouded by my bankruptcy, it is meet to note that it was more than 10 years ago, and the proximate result of illegal racial discrimination against me-- as I saw the facts then, and still believe them to have been now. Surely, my moral character cannot be besmirched by resort to the Courts, even if such

resort was futil. There were other less legal remendies that many other blacks took up during those years.

5. It is true that Catholic University will not release my undergraduate transcripts, because of the bankruptcy. I specifically informed the Committee that only a lawsuit would pry the documents from the school. I was under the impression that te Committee was not seeking me to file yet another suit. If the State Board desires me to file such a suit-- to release transcripts that are nearly 20 years old-- I will do so.

6. It is correct that I was reprimanded by the Disrict of Columbia

Court of Appeals. It is equally true that I have played some part in the conflict between that Court and the defense bar as to allegations of racial discrimination by the various judges in reimbursing " criminal Justice Act" attorneys, and in seeking to establish a legal proceedure for review in cuts in claim for reimbursement. The precise reason for my reprimand was for a failure to come to court to move to be relieved fom free representation of the mother of a child in a neclect case. The Court relied upon a presumption from mailing-- which had no clear factual predicate-- and discounted my statement that I did not recieve any order directing meto take any action. That the Court determined not to credit me over a presumption is its

business, not mine. I note that the District of Columbia Court of Appeals failed to consider the jurisdictional issues, particularly that there was no in personem jurisdiction, or that the order violated the 13th amendment. I another lawsuit, based upon similar circumstances, to which I am a class party the Federal Court of Appeals directed the United States District Court to determine whether or not the forced conscription of attorneys violates the 13th amendment. I might add that mu contempt did have a " chilling effect" upon several attorneys inthe District of Columbia.

7. The supplemental questionnaire dated October 28, 1982 did not cite the hearing of the Disciplinary

Committee because the hearings are confidential. The Committee was aware of the contempts. I informed Mr. Keating prior to the first Committee meeting. The reccommendation only became final with the deciion of the Court of Appeals.

8. As the Board can see, I have not pressed too strongly to gain admission to the Maryland Bar. I only seek admission because of overlap in my District of Columbia pratice. Thus, I have waited several years while the Character Committee sought to draft a report that would keep me out of the Bar, based upon nothing but fluff. Now, however, I feel that I am entitled to more consideration than I have recieved. There is not one

positive aspect that impugns my moral character, nor has the Committee suggested any such thing. Rather, the report, by its own terms and construction, seems to be written to arrive at a preconcieved determination, which is wrong. My public record, while not unmarred, is clear and open. After nearly six years of practice-- in the trenches with criminals, and attacking what many precieve to be unfair judicial pratices-- not one positive act of misconduct can be cited by the Committee. Rather, the errors of ommission-- if any-- are the result of a long continuing process for which the Committee is partially to blame. It appears that the standerd used by the Character Committee is hopelessly vague, and plastic, and able to be

expanded to keep any person that the Committee desires out of the Maryland Bar.

9. The Committee makes a material misstatement of fact in finding 15. I did hold about $6,000.00 for a time in a savings account, which I converted to a trust account, after NS&T Bank closed an account that I had specifically opened to hold these monies. I had $38.00 of my own money in the account, which had been dormant for many years. I talked several times with friends in the District of Columbia's office of Bar Counsel about the significance of Canon 9 dealing with commingling and the like. I am certian-- as I stated to the committee-- that my action did not

violate District of Columbia law or pratice. Several members of the Committee disagreed, and argued that I should have spent money to associate myself with another lawyer to hold my client's funds, or to do something else. As I precieve the requirements of te District of Columbia, a trust account is one that is used primarily for holding a client's funds. That is what I did with my ersewhile savings account. I deny violating any Disciplinary Rule of the District of Columbia. Indeed, this point belies any lack of candor on my part. I raised the question with the Committee because of my own absolute candor. Had I not wanted the Committee to know, I simply would not have told it about my concerns, and it could never have found out. As it was, I did discuss

the issue because it did raise some concerns in my mind. It is similarly out of candor with the Committee tht I ave steadfastly refused to state that the list of some 33 suits exhausts all of the possibilities.

10. In paragraph 2 of its conclusion of law, the Committee states that it cannot dispel its notion that the contempts would not have been disclosed by me. Yet, in her letter of September 8, 1982 Ms. Reid notes that she would talk to Mr. Keating about my representation as to the contempt. I do not have a copy of the last transcript, but I do not recall that Mr. Keating made any denial of my averment.

11. The statements in paragraph 4 of the conclusions are gratuitous. Of course frivilous suits have not been filed, either before or since I have become a member of the Bar. My precise role has been to clarify the law in many areas where a common law or old boy network left the precise contours of law uncharted.

12. There is no factual predicate for paragraph 3 of he Conclusions since under District of Columbia law I can use any account as a "trust" account, without specifically denominating it so. As to expediency, I have $6,000.00 of my client's money in my pocket. I was responsible for the same, and he was out of the jurisdiction in parts unklnown to me. I reject the idea that

I should give my client's money to another attorney for safekeeping, at some costs to him, when there was an ethical, legal alternative. I put the money in a long dormant account, and after a little while gave the money to my client. That members of the Committee might have done otherwise is not the question. The question is whether or not my actions violated the laws of the District of Columbia, and the answer is clearly no.

13. It appears that my moral character is not permanent. While the Committee has not talked to me for more than a year, other than to make several incorrect assurances that the long awaited report would be soon forthcoming, it states that perhaps at

some future time my moral character might be such as to permit me to gain entry to the Maryland Bar. I ask what are those impediments that are removable ? When will there be a subsequent opportunity ? Has the Committee taken into account the time between it last meeting with me and the report-- almost two years ? Once again, the action of the Committee seems to be standerdless.

14. I repeat that I am being denied proceedural and substantive due process within the meaning of the Fifth (sic) amendment to the Constitution of the United States, as well as the Constitution of the State of Maryland. The pratice of law is one of the ordinary callings. I have

demonstrated my fitness by being a member of the District of Columbia Bar for nearly six years, as well as having membership in the various federal courts where I have, from time to time, praticed. The placing of the burden of proof upon me to prove moral fitness is unconstitutional, since under due process of law, moral fitness is presummed. Moreover, my public record stands for the presumption of moral fitness. This is butressed by the many letters of reccommendation cited in paragraph 7 of the findings of fact. Since there is not a single fact that attests to my moral unfitness, te report of the Committee is constitutionally flawed. More than that, the nitpicking, as suggested above, demonstrates that the report is biased against me. Having

nothing substantive to urge my rejection with, the report deals with the type of fluff designed to avert the Board's eyes from the total lack of any factual predicate for the reccommendation. That is unfair. The real reason for my rejection would appear to be articulated in paragraph 4 of the findings, that I am unwiling to accept the status quo . What the predicate for that statement is is unclear. I had thought that by defination lawyers are a part of the status quo . For years blacks have sought to gain the admission of " common blacks" before the various bars, because as a People afflicted by the status quo it was felt important to have input in the decisionmaking process. I have represented the viewpoints of my clients, forcefully

and with some sucess. Thus I have attacked the lack of speedy trial standerds in the District of Columbia, the lack of a system that permits citizens to voluntarily surrender themselves on arrest warrents, the failure of the District of Columbia to articulate a rational system for the return of properties siezed from defendants-- particularly monies which are used to subsidize police salaries the conscription of attorneys to grease the skids of due process in child necect cases and the like. I find the Maryland jurisprudence more rational than the District of Columbia's, but no doubt when confronted with an injustice, I would fight until it was put to rights. It seems to me that this is the function of an attorey-- particularly a black

attorney. It would appear that the real reason that I am found immoral-- pursuant to no articulated standerd-- is to prevent people like me, particularly blacks like me-- from having input into the decisionmakng process.

Accordingly, I seek that the Board sua sponte reject the reccommendation of the Board (sic) and forward a favorable reccommendation to the Court of Appeals.

Please forward me a copy of the Rules of Proceedure from this point forward, so that I can assure myself of not missing a deadline for briefing in the Court of Appeals. I incorporate my

prior constitutional objections into this letter.

Sincerly,

IN THE COURT OF APPEALS OF MARYLAND

misc. no. 12

In the matter of the
Application of Melvin M.
for Admission to the

bar of Maryland.

MOTION FOR RECONSIDERATION

PURSUANT TO RULE 850 OF THE MARYLAND PROCEEDURE, APPLICANT MOVES THE COURT TO RECONSIDER ON THE GROUNDS THAT THE SHIFTING OF THE BURDEN OF PROOF MANDATED BY RULE 4(c) IS UNCONSTITUTIONAL AND WORKS AS A DENIAL OF THE RIGHTS AND PRIVILEDGES VOUCHSAFED TO HIM UNDER ARTICLE IV AND THE FIFTH AND FOURTHTEENTH AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA. AS GROUNDS THEREFORE HE STATES AND ASSERTS:

1. Rule 4(c) is a statute within the meaning of 28 U.S.C. 1257(2).

2. The action in admitting or refusing admission to pratice law is " legislative" rather than " judicial".

3. The statnderds utilized by the Court are arbitrary and standerless as applied in the instant case.

4. The pratice of law is one of the normal activities of life to which every citizen is presumptively entitled to aspire. As a matter of constitutional law, every citizen of the United States has the same right to pratice any of the common professions, as any other citizen does. Denial of the right to pratice any of the normal professions can only be predicated upon criminal activity or clear and unambigious wrongdoing. In the instant case, this Court has branded applicant as too unethical to pratice law in the State of Maryland, without specifying the reasons

therefore. This is a denial of due process.

5. More fundementally, the Court has cast the burden of proving fitness upon applicant. This is wrong. Every citizen is equally presummed to be fit to pratice any of the common professions, and hence the constitutional burden of proof is always upon those who would deny the requisite permits. Thus, to the extent that the Court predicates its denial merely upon a failure to satisfy the alleged burden of proof, the action of the Charecter Committee, and of this Court is unconstitutional, and in violation of Article IV, the Fifth, Ninth, and Fourteenth Amendments to the Constitution of the United States

of America, which is Supreme Under Article VI of the said Constitution. Other than a failure to satisfy the burden of proof, there is no reason for the denial of the permit to pratice law within the State of Maryland.

6. The mere fact that applicant is a Member of the Bar of the District of Columbia, and of various federal courts, without specific articulatable reasons in contrast thereto, is presumptive of his suitability to pratice law within the State of Maryland. This is a mandatory presumption under Article I, section 9, (bill of attainter; Title of nobility); Article IV, the Fifth and Fourteenth and the Ninth Amendments

to the Constitution of the United States. His qualification to pratice law is amply demonstrated by his passing of the Bar Examination on his first sitting.

7. To shift the burden of proof is creation of a Title of Nobility in that it assummes that a certian unspecified segment of the population is more worthy than another to carry out the pratice of law;

8. Under the specific circumstances of this record, there is a presumption that the denial of the permit to pratice law is racially motivated since 1. applicant is qualified to

pratice law since he passed the Bar examination; 2. he is black; 3.convicted criminals and ex-drug addicts have been admitted to the pratice of law in the State; 4. he has been a member of the Bar of the District of Columbia for more than six years 5. there has been no advesary hearing to ferret out the truth and 6. in other cases good letters of reccommendation have been sufficient to rebut any adverse inference from unequivocable acts of dishonesty such as stealing. Applicant, however, has never been cited for any act of dishonesity. (The question regarding the $6,000.00 more or less was stated to be within the norms of the pratice of District of Columbia law. He cannot be sanctioned for failing to apply alleged Maryland standerds to District

of Columbia transactions.) Each hearing has been one where only a specific problem has been spotlighted, then upon the entire record appllicant is rejected because he did not attend to problems not articulated to him at the time. He has not been able to confront the allegation that he failed to inform the Committee of his contempt.

9. The standerds applied by the Courts are vague, arbitrary and not subject to objective quantificantion in violation of Article IV, and the Fifth, Ninth, and Fourteenth Amendments to the Constitution of the United states.

Wherefore, because the action of this Court is unconstitutional in particular, and since Rule 4(c) shifting the burden of proving fitness upon the applicant deprives citizens of the United States of their federal right to equal protection under Article i, section 9, Article 4, the Fifth, Fourteenth and Ninth Amendments tothe Constitution of the United States of America which is Supreme overthis Court pursuant to Article VI, and since there is a mandatory presumption that applicant was denied because of his race, and prior bankruptcy, reconsideration and vacation of the order of Janurary 9, 1985 is required.

So moved

RESPECTFULLY SUBMITTED.

MELVIN ANTHONY MARSHALL.
D.C. BAR # 955708
P.O. BOX 50245
WASHINGTON, D.C. 20004
726-4249

I CERTIFY THAT A COPY OF THIS MOTION WAS mailed certified mail to the State Board Examiners, District Court Bldg. suite 403 P)O) Box 1911, Anapolis, Md. 21404 on Februar 1985.

N THE COURT OF APPEALS OF MARYLAND

misc. no. 12

n the matter of the
pplication of Melvin M.
or Admission to the
ar of Maryland

ERTIFIED MAIL P 084 530 140

notice of appeal

IS HEREBY GIVEN THAT MELVIN
MARSHALL APPEALS TO THE
COURT OF THE UNITED STATES THE
N ON THE COURT OF APPEALS OF
D DATED FEBRUARY 22, 1985
HIM ADMISSION TO PRATICE
MARYLAND COURTS.

APPEAL IS TAKEN PURSUANT TO 1257(2).

THE STATUTE IS MARYLAND RULES 2D AND 4C ALLOCATING THE BURDEN OF PROOF.

RESPECTFULLY SUBMITTED.

MELVIN ANTHONY MARSHALL.
D.C. BAR # [illegible]
P.O. BOX 50245
WASHINGTON, D.C. 20004
726-4249

I CERTIFY THAT A COPY OF THIS MOTION WAS mailed certified mail to the State Board Examiners, District Court Bldg. suite 403 P.O. Box 1911, Annapolis, Md. 21404 on [illegible] 1985.

STATE BOARD OF LAW EXAMINERS.
DISTRICT COURT BUILDING.
P.O. BOX 1911,
JUNE 14. 1984
ANNAPOLIS. MD. 21404.

RE: MELVIN ANTHONY MARSHALL.
APPLICATION NO. A-9375

CERTIFIED MAIL NO. P30 5516999

Sir:

UNLESS THE BOARD REQUIRES MY PRESENCE. I DO NOT INTEND TO BE PRESENT FOR THE JULY 24.1984 HEARING. I AM NO PRESUMPTIVELY QUALIFIED TO BE A MEMBER OF THE BAR OF THE COURT OF APPEALS OF MARYLAND. AND THE REPORT OF THE COMMITTEE STRIKES ME AS AN ACT OF RACIAL PREJUDICE BECAUSE I AM ARTICULATE AND BLACK. I NOTE THAT SEVERAL FELONS HAVE BEEN READMITTED TO THE MARYLAND BAR. AND THAT LAWYERS WHO HAVE COMMITTED SERIOUS CRIMES HAVE NOT

BEEN DISBARRED. AS I SAID BEFORE. WHATEVER MY FAULTS, THEY ARE INSUFFICIENT TO PRECLUDE MY ADMISSION TO THE BAR OF THE COURT OF APPEALS.

I NOTE, FOR THE RECORD, THAT ALL EXCEPT ONE OF THE PRO SE LAWSUITS I FILED WERE IN THE DISTRICT OF COLUMBIA. I HAVE BEEN A MEMBER OF THE BAR OF THAT JURISDICTION NEARLY SIX YEARS.

I ANTICIPATE THAT THIS LETTER WILL SUFFICE TO PERMIT ME TO AVOID COMING TO BALTIMORE, ON JULY 24,1994, BUT AWAIT A DECISION BY THE BOARD. TIME IS NOW OF THE ESSENCE INASMUCH AS THERE IS NO REAL BASIS FOR MY EXCLUSION FROM

THE BAR OTHER THAN RACIAL POLITICS.

Sincerly

STATE BOARD OF LAW EXAMINERS,
DISTRICT COURT BUILDING,
P.O. BOX 1911,
JUNE 14, 1984
ANNAPOLIS, MD. 21404.

RE: MELIVN ANTHONY MARSHALL,
APPLICATION NO. A-9375

CERTIFIED MAIL NO. P30 5517032

Sir:

ON JUNE 11, 1984, AT ABOUT 12:30 P.M. (WHILE I WAS IN THE MIDST OF A VERY IMPORTANT CUSTODY HEARING AS ADJUNCT COUNSEL) I RECIEVED YOUR LETTER DATED JUNE 4, 1984. UNFORTUNALLY, I DID NOT SAVE THE ENVELOPE, AND HAVE NO POST MARK. LATER THAT EVENING, I RECIEVED A MESSAGE ON MY TELEPHONE ANSWERING SERVICE FROM THE BOARD'S SECRETARY.

I HAD MOVED THE BOARD TO DISPENSE WITH AN ORAL APPEARENCE. BUT SUBMIT TO ITS DESIRE. I ASK THAT ANOTHER DATE BE SET. IN REALITY, AS THE BOARD KNOWS, I AM A PRATICING ATTORNEY WITHIN THE DISTRICT OF COLUMBIA. THE MARYLAND COURTS, AND THOSE OF THE DISTRICT OF COLUMBIA ATTEMPT TO GIVE AT LEAST 30 DAYS NOTICE OF A HEARING. THE SEVEN DAY NOTICE THAT I RECIEVED WAS UNFAIR TO ME, AND AN INSULT TO THE LEGAL PROFESSION.

I DO NOT KNOW WHAT I AM TO ANSWER. WHILE I AM A MEMBER IN GOOD STANDING OF VARIOUS BARS, AND WHILE THE EVENTS SPOKEN TO IN THE COMMITTEE REPORT ARE MAINLY EVENTS THAT TOOK PLACE BEFORE I WAS CALLED TO PRATICE BEFORE THE BAR OF THE DISTRICT OF COLUMBIA COURT OF

APPEALS. NO SPECIFIC FAULT OR DEFICIT ABOUT ME IS ARTICULATED. WE ALL KNOW THAT IT IS IMPOSSIBLE TO REBUTT A NEGATIVE. I CANNOT ESCAPE THE FEELING THAT THE TRUE REASON FOR THE DECISION OF THE COMMITTE WAS TO PRECLUDE ME FROM BECOMING A MEMBER OF THE BAR OF THE COURT OF APPEALS OF MARYLAND SOLELY BECAUSE I AM BLACK, AND ACTIVE.

ONCE AGAIN. I FORMALLY ASK THE BOARD TO MAKE A DETERMINATION ON THE PAPERS. SINCE THE COMMITTEE WAS UNABLE TO ARTICULATE ANY " BAD " THING ABOUT ME. THE REFUSAL TO <u>PROMPTLY</u> ADMIT ME TO PRATICE TO THE MARYLAND BAR IS STRANGE. AND UNSUPPORTED BY THE EVIDENCE. WHATEVER BURDEN OF PROOF THAT I HAVE AS TO MY GOOD CHARACTER. HAS BEEN AMPLY SATISFIED BY THE FACT OF MY ADMISSION TO THE BAR OF THE

DISTRICT OF COLUMBIA FOR MORE THAN FIVE YEARS, AND BY MY ADMISSIONS BEFORE THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, AND BEFORE THAT OF TE SUPREME COURT OF THE UNITED STATES. IN ADDITION, I HAVE PRACTICED BEFORE THE MARYLAND COURTS PRO HAC VICE ON SEVERAL OCCASSIONS.

PLEASE MAKE A RECCOMMENDATION BEFORE THE COURT OF APPEALS OF MARYLAND POSTHASTE. I SUCESSFULLY SAT FOR THE BAR MORE THAN TWO YEARS AGO, AND WHATEVER MY FAULTS, THEY ARE NOT SUCH AS TO PRECLUDE MY ADMISSION TO THE BAR.

Sincerly

HONORABLE CHIEF JUDGE,
ASSOCIATE JUDGES,
COURT OF APPEALS OF MARYLAND
FEBRUARY 21,1984
COURT OF APPEAL BLDG.,
ANNAPOLIS, MD.21401.

RE: APPLICATION FOR ADMISSION TO THE BAR # A 9375

Sir:

I am a member of the Bars of the Supreme Court of the United States, the United States Courts of Appeals for the District of Columbia, Federal, and 4th Circuits, the District of Columbia Court of Appeals, and several other Courts. In 1981, I sucessfully sat for the non-attorney bar examination. Since then, despite my best efforts, my admission has been stonewalled by inaction.

Prior to becomming an attorney, I filed numerous complaints in the Courts of the District of Columbia. I cannot say with certianty, just how many suits I filed during that time. In addition, I declared for bankruptcy in 1973. Because I could not determine the precise number of actions that, in any case, ultimate review of the Committee's action will lie in this Court.

With this letter, I formally petition the Court to enter an order to show cause to the State Board of Law Examiners as to why my admission should not be permitted at the earliest possible date. The only apparent remendy that I appear to have would be to apply for a writ of Mandamus in Circuit Court of Maryland for Montgomery County, or to make this

direct application to the Court of Appeals. Inasmuch as this Court has primary jurisdiction, I first apply to it. If, however, the Court declines to act, please inform me so that I can file my petition for a writ of Mandamus in Circuit Court.

To my mind, the long delay is simply a device to keep me from economically praticing law in Maryland, and there has been no articulation of anything that goes to my ethical unfitness to be a Member of the Bar of this Court.

Sincerly,

cc State Bd. of Law Examiners,

P.O. BOX 1911
ANNAPOLIS, MD.21404

ELSIE L. REID,ESQ
8401 CONN. AVE.
CHEVY CHASE, MD. 20015